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E.O. 11652: XGDS-3
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SUBJECT: SECRETARY'S MEETING WITH MEXICAN AMBASSADOR JORGE CASTANEDA SEPTEMBER 2, 1976

1. SUMMARY: THE SECRETARY MET WITH MEXICAN AMBASSADOR JORGE CASTANEDA IN CONSTRUCTIVE HOUR-LONG SESSION SEPTEMBER 2. THE SECRETARY POINTED OUT THE URGENCY IN BEGINNING SERIOUS NEGOTIATIONS, NOTING THAT ONLY TWO AND A HALF WEEKS REMAIN OF THE CURRENT SESSION. THE SECRETARY OUTLINED HIS VIEWS OF POSSIBLE FRUITFUL APPROACHES IN EACH OF THE THREE COMMITTEES. HE URGED MEXICO TO TAKE THE LEAD AS A MODERATE AND RESPONSIBLE MEMBER OF THE GROUP OF 77. AMBASSADOR CASTANEDA RAISED THE PROBLEM OF U.S. APPROVAL OF THE FISHERIES AGREEMENT WITH MEXICO. THE SECRETARY AGREED TO LOOK INTO THE MATTER. END SUMMARY.

2. AMBASSADOR CASTANEDA GAVE THE SECRETARY A LETTER FROM MEXICAN FONMIN GARCIA -ROBLES, WHICH HE DESCRIBED AS A REPLY TO TWO EARLIER MESSSAGES FROM THE SECRETARY.

3. THE SECRETARY EXPRESSED THE VIEW THAT OBSTACLES POSSIBLE TO PROGRESS IN COMMITTEE II AND III COULD BE OVERCOME BY CONSTRUCTIVE NEGOTIATION. AMBASSADOR CASTANEDA SAID THE ISSUE MUST BE DEALT WITH ON THE
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BASIS OF HIGH SEAS RIGHTS IN THE ECONOMIC ZONE RATHER

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THAN THE PHRASE "HIGH SEAS STATUS". THE SECRETARY REITERATED OUR CONCERN THAT THE ECONOMIC ZONE NOT BECOME A TERRITORIAL SEA.

4. THE SECRETARY SUGGESTED THAT COMMITTEE III PROBLEMS ON MARINE SCIENTIFIC RESEARCH MIGHT BE ALLEVIATED IF THE COASTAL STATES COULD REQUIRE CONSULTATION ONLY IN CASE THAT VITAL RESOURCE INTERESTS WERE AFFECTED BY THE PROPOSED RESEARCH. HE RESTATED OUR NEED THAT THE PRINCIPLE OF FREE ACCESS FOR SCIENTIFIC RESEARCH BE MAINTAINED.

5. THE SECRETARY NOTED THAT COMMITTEE I PRESENTS A DIFFERENT PROBLEM. HE OUTLINED THE DIFFERENCE IN PERCEPTION BETWEEN THE LDC'S AND THE DC'S; OUR PERCEPTION IS THAT WE ARE BEING ASKED TO FINANCE COMPETITION IN OCEAN MINING, WHILE IN THE ABSENCE OF A TREATY WE MIGHT EXPECT TO BEGIN WORK SOON AND WITHOUT COMPETITION. HE NOTED THAT THE G-77 FEELS THAT ANY ACCESS BY PARTIES OTHER THAN THE AUTHORITY REPRESENTS A CONCESSION OF RIGHTS INHERENT IN THE COMMON HERITAGE OF MANKIND. THE SECRETARY SAID THAT THE UNITED STATES HAS CONCEDED NEARLY ALL THAT IT CAN ON THIS QUESTION AND ASKED THAT THE GROUP OF 77 TAKE THIS INTO ACCOUNT.

6. CASTANEDA RECOGNIZED THAT A DUAL ACCESS SYSTEM IS ESSENTIAL TO THE INDUSTRIAL STATES, NOTING THIS COMPROMISE AS A POLITICAL NECESSITY. HE ASSERTED THAT THE DUAL ACCESS SYSTEM COULD BE ACCEPTED WITH THREE CONDITIONS:

A. THAT THE AUTHORITY POSSESS SUFFICIENT FINANCIAL RESOURCES TO CONDUCT ITS OWN OPERATIONS,

B. THAT THERE BE A CONFERENCE CONVENED TO REVIEW THE OPERATIONS OF THE TREATY, AND

C. THAT WE RESOLVE THE PROBLEM OF A TRIBUNAL WITH POWER TO OVERTURN DECISIONS OF THE AUTHORITY.

7. THE SECRETARY ASKED THAT THE CONFERENCE PRODUCE A TEXT IN THE NEXT TWO-AND-A-HALF WEEKS WHICH WOULD PROVIDE THE PROSPECT FOR FINAL SETTLEMENT NEXT MAY. THE TEXT SHOULD PROVIDE OBJECTIVE CRITERIA FOR FIRMS APPLYING FOR CONTRACTS TO EXPLOIT SEABED MINERALS.

8. CASTANEDA ASKED THAT THE DC'S PROVIDE A DRAFT TEXT WHICH WOULD PROVIDE FOR TRANSFER OF TECHNOLOGY. HE

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ASKED THAT FINANCING OF THE ENTERPRISE BE ENDOWED WITH "AUTOMATICITY". THIS WOULD INCLUDE AUTHORITY TO COLLECT FEES FOR LICENSES TO WORK PROVEN SITES, SOME FIXED ROYALTY INCOME, AUTHORITY TO BORROW, AND PERHAPS, AN ARRANGEMENT BY WHICH THE AUTHORITY COULD TAKE REVENUES FROM CONDUCT OF OPERATIONS ON THE CONTINENTAL MARGIN BEYOND 200 MILES.

9. THE SECRETARY SUGGESTED THAT PREPARATION OF THESE DRAFTS WOULD PERMIT US TO END THE CONFERENCE ON A CONSTRUCTIVE NOTE RATHER THEN IN AN ATTITUDE OF CONFRONTATION.

10. CASTANEDA SUGGESTED FORMATION OF A SMALL NEGOTIATING GROUP, TO INCLUDE MEMBERS OF THE SOCIALIST BLOC. HE AGREED TO TRY TO ESTABLISH SUCH A GROUP WHICH WOULD BE "SMALL, NOT SECRET BUT OUTSIDE THE CONFERENCE," AND REPRESENTATIVE.

11. CASTANEDA ASKED THAT THE TERM "AUTOMATIC" ACCESS BE DROPPED. THE SECRETARY REPEATED AN ANALOGY SUGGESTED BY PINTO; THE DISCRETION OF THE AUTHORITY IS LIKE THE PROCESS OF A DRIVERS TEST. THE PRACTICAL EFFECT IS AUTOMATIC, BUT THE AUTHORITY WOULD RETAIN A MEASURE OF DISCRETION IN EVALUATING WHETHER POTENTIAL APPLICANTS ARE CAPABLE OF OPERATING IN ACCORDANCE WITH THE RULES OF THE ROAD.

12. CASTANEDA SUGGESTED THAT "HIGH SEAS RIGHTS" RATHER THAN "HIGH SEAS STATUS" WOULD BE THE BASIS FOR RESOLUTION OF THE HIGH SEAS ISSUE. THE SECRETARY SUGGESTED THAT MEXICO PREPARE A "NON-PAPER" WHICH COULD BE AGREED AT THE CONFERENCE AND CLEARED IN WASHINGTON
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AS THE LAST CONCESSION ON THE STATUS OF THE ECONOMIC ZONE WHICH WOULD BE ASKED OF THE UNITED STATES.

13. CASTANEDA, ON INSTRUCTION FROM HIS FONMIN, RAISED THE PROBLEM OF U.S. DELAY IN RATIFICATION OF THE U.S.-MEXICAN FISHERIES AGREEMENT. DISCUSSION BY U.S. PARTICIPANTS NOTED THAT THE AGREEMENT WILL BE SUBJECT TO CLOSE SCRUTINY BY TEN COASTAL STATES SENATORS, AMONG THEM THE CHAIRMAN OF THE SENATE FOREIGN RELATIONS COMMITTEE. RESOLUTION OF THE PROBLEM MUST STEER BETWEEN THE POSSIBILITY THAT THE AGREEMENT BE NULLIFIED BY LEGISLATION IF CONCLUDED, OR THAT MEXICO WILL BEGIN TO ENFORCE TOTAL EXCLUSION OF U.S. FISHERMEN IN THE ABSENCE OF AN AGREEMENT. EXCLUSION OF U.S. FISHERMEN MIGHT TRIGGER THE "SANCTIONS" PROVISION OF U.S. FISHERIES

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LEGISLATION. CASTANEDA REITERATED THAT THE PROBLEM
IS BEING DISCUSSED DAILY IN MEXICAN NEWSPAPERS.
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